

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 100055
ORIGIN L-03

INFO OCT-01 IO-13 ISO-00 DODE-00 DHA-02 ACDA-07 NSC-05
NSCE-00 SS-15 SSO-00 SP-02 /048 R

DRAFTED BY L/OES:RJBETTAUER:MERS
APPROVED BY L/OES - RONALD J. BETTAUER
DOD/OSD/ISA - COL. NAFTZINGER(SUB)
IO/HR - MR. HEWITT (SUBS)
D/HA - MR. HEILSNIS (SUBS)
ACDA/GC - MR. GRAHAM (INFO)
-----032248Z 116723 /70
O 032125Z MAY 77
FM SECSTATE WASHDC
TO USMISSION GENEVA IMMEDIATE

LIMITED OFFICIAL USE STATE 100055

FOR USDEL INTENATIONAL HUMANITARIAN LAW

E.O. 11652: N/A

TAGS: ICRC, PFOR, PARM

SUBJECT: RESPONSE TO FREYMOND LETTER

1. BRZEZINSKI RECEIVED LETTER FROM FREYMOND REPEATED
PARA 3 BELOW. WE HAVE BEEN REQUESTED TO PROVIDE SUB-
STANTIVE DRAFT REPLY TO WHITE HOUSE FOR BRZEZINSKI
SIGNATURE BY MAY 5. PARA 2 CONTAINS DRAFT RESPONSE NOT
YET CLEARED IN WASHINGTON. WE REQUEST YOUR URGENT
COMMENTS (OR REDRAFT) BY OPENING OF BUSINESS IN WASHINGTON
MAY 5.

2. DEAR JACQUES: I HAVE CHECKED OUT THE POINTS YOU RAISED
IN YOUR LETTER OF APRIL 12. WHILE THE UNITED STATES
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 100055

SUPPORTS EXPANDING THE HUMANITARIAN PROTECTIONS AVAILABLE
TO VICTIMS OF INTERNAL ARMED CONFLICTS, IT WOULD NOT APPEAR
FEASIBLE TO COVER SUCH CONFLICTS IN PROTOCOL I, WHICH
DEALS WITH INTERNATIONAL ARMED CONFLICTS.

AS YOU REALIZE THE FOURTH SESSION OF THE GENEVA DIPLOMATIC
CONFERENCE ON THE REAFFIRMATION AND DEVELOPMENT OF

INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN ARMED CONFLICT IS CURRENTLY IN SESSION. THIS CONFERENCE HAS SINCE 1974 BEEN DEVELOPING TWO PROTOCOLS TO THE 1949 GENEVA CONVENTIONS ON THE PROTECTION OF VICTIMS OF WAR. THE FIRST PROTOCOL

DEALS WITH INTERNATIONAL ARMED CONFLICTS WHILE THE SECOND DEALS WITH THE INTERNAL CONFLICTS YOU REFER TO IN YOUR LETTER. DURING THE ENTIRE WORK AT THE CONFERENCE THE DRAFTING HAS PROCEEDED ON THIS ASSUMPTION. BOTH SUBSTANTIVE AND POLITICAL REASONS WOULD MAKE IT IMPOSSIBLE TO REVISE THE APPROACH AT THIS LATE DATE, DURING WHAT IS PLANNED TO BE THE FINAL SESSION OF THE DIPLOMATIC CONFERENCE.

FROM A SUBSTANTIVE PERSPECTIVE, IT IS POSSIBLE TO ACCORD A SIGNIFICANTLY HIGHER DEGREE OF HUMANITARIAN PROTECTION TO VICTIMS OF INTERNATIONAL CONFLICTS THAN TO THOSE OF INTERNAL CONFLICTS. THE IMPLEMENTATION OF MANY PROVISIONS IN PROTOCOL I DEPEND ON THE EXISTENCE OF GOVERNMENTAL STRUCTURES AND OBLIGATIONS UNIQUE TO STATES. MOREOVER, CERTAIN RESTRICTIONS ARE EASIER TO IMPOSE ON GOVERNMENTS IN THEIR DEALINGS WITH OTHER GOVERNMENTS THAN IN THEIR DEALINGS WITH REBELS. WE WOULD BE VERY CONCERNED ABOUT WATERING DOWN THE HIGH LEVEL OF HUMANITARIAN PROTECTION WE CAN PROVIDE IN INTERNATIONAL ARMED CONFLICT - AND THIS WOULD SURELY OCCUR IF THE SAME PROVISIONS APPLIED TO INTERNAL CONFLICTS.

FROM A POLITICAL PERSPECTIVE, I AM INFORMED THAT ONE OF LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 100055

THE MAIN COMMITTEES SPENT ALMOST AN ENTIRE SESSION OF THE DIPLOMATIC CONFERENCE NEGOTIATING AND ADOPTING THE ARTICLE THAT DEALS WITH THE SCOPE OF APPLICATION OF PROTOCOL I. THIS WAS A HIGHLY CONTENTIOUS MATTER, AND REOPENING IT WOULD PROBABLY WRECK THE CONFERENCE. SUCH A RESULT WOULD BE THE WORST POSSIBLE FROM A HUMANITARIAN POINT OF VIEW.

NOTWITHSTANDING THE ABOVE I CAN ASSURE YOU THAT THE UNITED STATES HAS BEEN IN THE FOREFRONT DURING ALL THE SESSIONS OF THE CONFERENCE IN SEEKING THE EXPANSION OF THE PROTECTION ACCORDED TO VICTIMS OF INTERNAL ARMED CONFLICTS. I WOULD POINT OUT THAT MANY COUNTRIES ARE SKEPTICAL OR RESERVED ABOUT EXPANDING THESE PROTECTIONS BECAUSE THEY DO NOT WISH TO IMPAIR THEIR ABILITY TO DEAL WITH REBELS. THIS IS ONE OF THE REASONS COMMON ARTICLE 3 OF THE 1949 GENEVA CONVENTIONS HAS SO INFREQUENTLY BEEN APPLIED. BUT THE UNITED STATES, ALONG WITH SEVERAL OTHER DELEGATIONS, AND MOST NOTABLY THAT OF CANADA, HAS TRIED TO ACHIEVE

A PROTOCOL ON INTERNAL CONFLICTS THAT WOULD BE APPLIED AS WIDELY AS POSSIBLE AND WITH PROVISIONS THAT ARE BOTH EFFECTIVE AND REASONABLE. OUR SUCCESS HAS BEEN LIMITED BUT WE SHALL CONTINUE TO PRESS FORWARD. THE UNITED STATES IS INDEED DOING ITS BEST TO SEIZE THE OPPORTUNITY TO IMPROVE THE PROTECTION OF HUMAN RIGHTS IN ARMED

CONFLICT.

FINALLY, I WOULD LIKE TO REAFFIRM US SUPPORT FOR THE ICRC. WE HAVE DONE OUR BEST TO HAVE THE PROVISIONS OF BOTH PROTOCOLS REFLECT THE STRONG ROLE WE CONSIDER THE ICRC CAN AND SHOULD PLAY IN PROTECTING VICTIMS OF ARMED CONFLICT. SINCERELY, BRZEZINSKI.

3. DEAR ZBIG, I FOLLOW WITH THE GREATEST INTEREST, HOPE AND SYMPATHY THE ATTEMPTS MADE BY THE NEW ADMINIS- LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 100055

TRATION TO ELABORATE AND DEVELOP A STRATEGY FOR THE WEST. AND I MUST SAY THAT WHAT IS DONE NOW - A CONFIRMATION OF WHAT WAS ANNOUNCED BY YOUR PRESIDENT IN HIS BOOK AND IN HIS VARIOUS SPEECHES DURING THE CAMPAIGN - IS VERY ENCOURAGING. THIS IS NOT A CAPTATIO BENEVOLENTIAE ALTHOUGH IT SMELLS LIKE IT;

ONE OF THE REASONS OF THIS LETTER IS TO TELL YOU THAT I WOULD BE HAPPY IF I COULD SEE YOU, EVEN BRIEFLY, WHEN I WILL BE GOING THROUGH WASHINGTON BETWEEN MAY 23 AND 26. I PLAN TO GO TO NEW YORK ON THE 26TH AND STAY THERE UP TO THE 31ST. I WOULD INDEED LIKE TO BE INFORMED IN A BETTER WAY ON SOME ASPECTS OF YOUR FOREIGN POLICY, MORE SPECIFICALLY ON EAST-WEST RELATIONS. I DO KNOW THAT YOU ARE BUSY AND , EVEN MORE, THAT YOU CANNOT EASILY TELL IN ADVANCE WHAT YOUR SCHEDULE WILL BE. BUT I STILL HOPE...

ANOTHER REASON FOR THIS LETTER IS TO ENQUIRE WHETHER THERE IS A POSSIBILITY THAT THE DELEGATION OF THE UNITED STATES AT THE FOURTH SESSION OF THE DIPLOMATIC CONFERENCE ON HUMANITARIAN LAW IN GENEVA CAN SEIZE AN OPPORTUNITY TO IMPROVE THE PROTECTION OF HUMAN RIGHTS THROUGH THE GENEVA CONVENTIONS. AS YOU MAY KNOW THERE IS IN THE FOUR GENEVA CONVENTIONS AN ARTICLE 3 WHICH HAS ENABLED THE INTERNATIONAL COMMITTEE OF THE RED CROSS TO OFFER ITS SERVICES IN ARMED CONFLICTS OF A NON INTERNATIONAL CHARACTER, AND EVEN IN SITUATIONS OF INTERNAL TROUBLES. DURING THE 13 YEARS I WAS A MEMBER OF THE ICRC, I HAD SEVERAL OCCASIONS TO FACE THE VERY DIFFICULT PROBLEMS OF THE PROTECTION OF GUERILLAS AND/OR QTE POLITICAL UNQTE PRISONERS (IN VIETNAM, IN THE MIDDLE EAST, IN GREECE, IN

AFRICA AND LATIN AMERICA).

WHAT I CAN SAY IS THAT THE ICRC HAS OBTAINED SOME POSITIVE RESULTS. IT DOES NOT PUBLISH ITS REPORTS WHICH ARE GIVEN TO THE DETAINING GOVERNMENT. IT DOES NOT TRY TO LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 STATE 100055

MOBILIZE PUBLIC OPINION WHICH IS THE ROLE OF AMNESTY INTERNATIONAL. WHAT IT DOES - AND THIS IS OF DECISIVE IMPORTANCE - IS TO VISIT MEN AND WOMEN IN THEIR JAILS,

IN THEIR CAMPS AND TO SEE WHETHER THEY ARE CORRECTLY TREATED. THESE VISITS, TO GIVE YOU AN EXAMPLE, REDUCED THE NUMBER OF MISTREATMENTS IN GREECE.

THE REASON WHY I TAKE SOME TIME TO EXPLAIN THIS ACTION IS THE FACT THAT IN THE ADDITIONAL PROTOCOL NO I, ADOPTED IN ONE OF THE PREVIOUS SESSIONS OF THE DIPLOMATIC CONFERENCE, INTERNAL TROUBLES WERE EXPLICITLY EXCLUDED FROM THE FIELD OF APPLICATION OF THE PROTOCOLS. YOU EASILY IMAGINE THE MOTIVES OF SUCH AN EXCLUSION WHICH FOR ME IS A REGRESSION IN HUMANITARIAN LAW.

MY QUESTION IS WHETHER THIS ARTICLE CANNOT BE DROPPED OR ATTENUATED; SHOULD YOUR GOVERNMENT TAKE AN INITIATIVE IN THIS DIRECTION - AN INITIATIVE WHICH WOULD ENTER INTO THE STRATEGY YOU HAVE ADOPTED - THERE COULD BE SOME CHANCE THAT IT WOULD GET OUTSIDE SUPPORT. WE CAN IMAGINE THAT THE NEW GOVERNMENT OF INDIA WOULD BE MORE OPEN THAN ITS PREDECESSOR TO THE WIDENING OF THE FIELD OF APPLICATION OF HUMANITARIAN LAW.

TO SUM UP, I WOULD SAY THAT THERE ARE MORE CHANCES TO IMPROVE THE PROTECTION OF HUMAN RIGHTS BY EXTENDING THE FIELD OF APPLICATION OF THE GENEVA CONVENTIONS TO INTERNAL TROUBLES AND MAKING AN INCREASING USE OF THE ICRC, AN INSTITUTION TO WHICH SOME GOVERNMENTS HAVE ALREADY GIVEN AN ACCESS TO PLACES OF DETENTION OF SO CALLED QTE POLIICAL DETAINEES UNQTE, OR BETTER QTE DETENUS ON RAISON DES CIRCONSTANCES UNQTE.

I WOULD LIKE TO KNOW YOUR REACTION TO THIS SUGGESTION. AND SINCE IT HAS BEEN ANNOUNCED THAT PRESIDENT CARTER WILL LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 06 STATE 100055

BE IN GENEVA ON MAY 9, ONE COULD DREAM THAT HE COULD FIND

HALF AN HOUR TO GO TO THE CONFERENCE'

WITH WARM REGARDS, YOURS SINCERELY, JACQUES FREYMOND.

FYI: BRZEZINSKI SENT FREYMOND INTERIM RESPONSE INDICATING
POINTS IN ABOVE LETTER WOULD BE CHECKED OUT. END FYI.
VANCE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TEXT, POLICIES, HUMAN RIGHTS, WAR, LAW, DIPLOMATIC COMMUNICATIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 03-May-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE100055
Document Source: CORE
Document Unique ID: 00
Drafter: RJBETTAUER:MERS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770155-0401
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770598/aaaadhfp.tel
Line Count: 231
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 42c9309b-c288-dd11-92da-001cc4696bcc
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 09-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2652630
Secure: OPEN
Status: NATIVE
Subject: RESPONSE TO FREYMOND LETTER
TAGS: PFOR, PARM, US, ICRC, (BRZEZINSKI, ZBIGNIEW)
To: GENEVA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/42c9309b-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009